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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
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Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Joinet: draft resolution

1995/... Situation of human rights in Guatemala

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the other international human rights instruments, as well as by the relevant norms and principles of international humanitarian law,

Recalling its resolution 1994/23 of 25 August 1994,

Bearing in mind that the Commission on Human Rights, in its resolution 1995/51 of 3 March 1995, took note of the report of the independent expert on the situation of human rights in Guatemala (E/CN.4/1995/15),

Gratified by the signature on 31 March 1995 of the Agreement between the Government of Guatemala and Unidad Revolucionaria Nacional Guatemalteca on the Identity and Rights of the Indigenous Peoples, containing provisions to

strengthen and improve democratic institutions so that they can respond appropriately to the new definition of the country as a multi-ethnic, multicultural and multilingual nation, and by the fact that the parties are currently dealing with the substantive issues pending in the negotiating process,

Recognizing the relevance of the contributions by the Assembly of Civil Society and the Group of Friendly Countries to the negotiating process,

Taking into consideration the fact that on 19 September 1994 the General Assembly established the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA), which began operations in Guatemala on 21 November 1994 and has already submitted two reports (A/49/856 and A/49/929),

Deeply concerned that the majority of human rights violations reported are violations of the right to life, of the integrity and security of the person or of liberty in which agents of the State are supposedly implicated or in which the State has failed in its duty to provide safeguards,

Concerned at the persistent problem of impunity manifested in the serious difficulties that investigations and legal proceedings encounter in making progress, and in the inability of the judicial system to bring to justice those intellectually and materially responsible,

Noting that general elections are to be held in Guatemala on 12 November 1995,

Concerned at the high level of abstentions in recent elections, in part because the climate of violence does not favour widespread participation by the population,

Also concerned at the marginalization and discrimination that the indigenous peoples of Guatemala continue to suffer, at the situation of the internally displaced people, most of them Mayan, and at the difficult conditions facing returnees and refugees,

1. Expresses its support for the process of negotiations between the Government of Guatemala and Unidad Revolucionaria Nacional Guatemalteca and expresses its gratitude to the United Nations Moderator, the Assembly of Civil

Society and the Group of Friendly Countries for their efforts to bring about a firm and lasting peace;

2. Expresses its satisfaction at the Agreement on the Identity and Rights of the Indigenous Peoples, which contains undertakings that, besides representing great advances for Guatemala, could be taken into account by countries with similar characteristics in that they envisage novel approaches to the recognition of their own institutions, official status for indigenous languages and judicial reforms;

3. Reiterates its support for the independent expert on the situation of human rights in Guatemala;

4. Expresses its support and appreciation to MINUGUA for the efforts it has been making since its inception to verify the Comprehensive Agreement on Human Rights;

5. Expresses its deepest concern that the signature of the Comprehensive Agreement on Human Rights and the presence of MINUGUA in Guatemala have not resulted in a substantial improvement in the human rights situation, given that grave violations affecting the right to life, to the integrity and security of the person and to liberty continue to occur;

6. Urges the Government of Guatemala to intensify its efforts to guarantee complete respect for human rights on the part of all authorities and of the armed forces and security forces, and to bring to justice those responsible for human rights violations, upholding the proper administration of justice;

7. Also urges the Government of Guatemala to ensure that the judicial system can operate with due protection being afforded to magistrates, investigators, witnesses and members of victims' families; to facilitate the activities of official and non-governmental human rights organizations; and to provide compensation to victims of human rights violations in accordance with the Comprehensive Agreement on Human Rights;

8. Takes note of the decision of the Government of Guatemala to suspend forcible military recruitment and the announced disbandment of the military commissioners, and urges the Guatemalan Congress to approve the corresponding laws as soon as possible;

9. Requests the Government of Guatemala to take the necessary measures to generate optimum conditions so as to enable elections to take place in the appropriate political climate, and asks the parties to the negotiations to give consideration to appropriate measures to ensure unrestricted exercise of political rights;

10. Also requests the Government of Guatemala to support the Supreme Electoral Tribunal's programmes to facilitate participation by citizens and the enfranchisement of the entire population, including internally displaced people, the so-called "Communities of Populations in Resistance" as well as returnees, and to provide information in indigenous peoples' languages;

11. Strongly exhorts the Government of Guatemala to set in train, as recommended by the independent expert, the dismantling of the system of Voluntary Self-Defence Committees so as to ensure, before the elections, maximum participation in the electoral process, averting any danger of intimidation;

12. Takes note with satisfaction of the first decisions by Unidad Revolucionaria Nacional Guatemalteca to suspend activities affecting the economic infrastructure of the country, and urges it to extend those decisions to cover other activities that also affect civilian property;

13. Takes note with appreciation of the encouragement the people of Guatemala have received from political and social circles to participate widely in the forthcoming elections so as to consolidate democracy;

14. Requests the General Assembly to look favourably on the request to extend the mandate of MINUGUA so as to ensure verification of the Comprehensive Agreement on Human Rights, and requests the international community to support MINUGUA economically;

15. Requests the Commission of the European Union, the Organization of American States and the United Nations to provide the economic and practical support that the Supreme Electoral Tribunal may seek in order to ensure a clear and transparent electoral process;

16. Urges the international community to consider sending observers to Guatemala to ensure that the electoral process works properly before, during and after the elections;

17. Requests the Government of Guatemala to give priority to the expansion of economic and social development programmes, in particular policies and programmes affecting indigenous peoples, with the full participation of representatives of such peoples and taking into account their proposals and criteria in the light of the Agreement on the Identity and Rights of the Indigenous Peoples;

18. Requests the Government of Guatemala and Unidad Revolucionaria Nacional Guatemalteca to step up their efforts to apply the Comprehensive Agreement on Human Rights that has been in force since 29 March 1994, and to consider giving swift effect to urgent provisions of the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict and the Agreement on the Identity and Rights of the Indigenous Peoples;

19. Calls on the Government of Guatemala and Unidad Revolucionaria Nacional Guatemalteca to pursue the negotiating process in depth and swiftly; on the Secretary-General of the United Nations to provide the necessary means for that process; on the Group of Friendly Countries to continue its good offices; and on the Assembly of Civil Society to continue to take part in the process.